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Chapter 5. The Responsibility to Protect within the Security Council's Open Debates on the Protection of Civilians: A Growing Culture of Protection

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1. The Protection of Civilians as a thematic issue on the Security Council's agenda

In the early 1990s, the Security Council began to intensively address the protection of civilians in armed conflicts in its country-specific decisions. After the United Nations (UN) failures in the Balkans, Somalia and Rwanda, this issue acquired a separate conceptual dimension, reflected for the first time in the 1998 Report of the Secretary-General on the causes of conflict in Africa, when it was defined as a 'humanitarian imperative'.¹

The UN's major concerns in this field were the weakening of the adherence to humanitarian norms in conflicts and crisis situations, as well as the fact that civilians had shifted from being indirect victims of hostile armies to representing their main target, and the increase in attacks on relief workers, which was seriously undermining the effectiveness of humanitarian assistance.

The Protection of Civilians (PoC), as discussed in the Council, covers a wide range of issues, and represents the 'framework for the UN's diplomatic, legal, humanitarian, and human rights activities directed at the protection of populations during armed conflict'.² In particular, the inclusion of PoC as a thematic issue on the Security Council's agenda aims to focus discussion on the duties of states and the role of UN organs in safeguarding civilian populations at times of armed conflict. PoC, as recalled by the Secretary-General, serves to help all parties to 'understand how their responsibilities for the protection of civilians should be translated into action'.³

In the decade between 1999 and 2010, the Council adopted five resolutions⁴ on PoC and held 26 Open Debates as a regular follow-up to these resolutions. During the Open Debates, various issues were discussed by the participant states. These include conflict prevention; the fight against impunity; child and refugee protection; security for relief personnel; access to humanitarian assistance; the need to disseminate knowledge of international humanitarian law and to improve its implementation; the ban on weapons such as anti-personnel mines; and including the protection of civilians in peacekeeping mandates. In general terms, the Debates allow states to express their concerns about loopholes in different areas of protection and suggest ways to improve the safeguarding of civilians.

Among the documents adopted by the Security Council, Resolution 1296 (2000)⁵ is particularly significant. This resolution recognises that the impact of conflicts on civilians could trigger the Council's responsibilities under the UN Charter. Resolution 1674 (2006)⁶ is also relevant: it contains the first official reference made by the Security Council to the Responsibility to Protect (RtoP) doctrine and, moreover, it realised the connection between RtoP and PoC. PoC-related issues are also considered in resolutions on other subjects, such as women and peace and security;⁷ children in armed conflicts;⁸ the protection of humanitarian

¹ Report of the Secretary-General, 'The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa' (1998) UN Doc A/52/871, 11 paras 49-52.

² See the website of the International Coalition for the Responsibility to Protect <http://www.responsibilitytoprotect.org/index.php/about-rtop/related-themes/2414--rtop-and-protection-of-civilians-debates-#Security_Council_Open_Debates> accessed 6 April 2011.

³ Report of the Secretary-General on the Protection of Civilians in Armed Conflict (2005) UN Doc S/2005/740, 15 para 53.

⁴ UNSC Res 1265 (17 September 1999) UN Doc S/RES/1265; UNSC Res 1296 (19 April 2000) UN Doc S/RES/1296; UNSC Res 1674 (28 April 2006) UN Doc S/RES/1674; UNSC Res 1738 (23 December 2006) UN Doc S/RES/1738; UNSC Res 1894 (11 November 2009) UN Doc S/RES/1894.

⁵ UNSC Res 1296 *ibid*.

⁶ UNSC Res 1674 (n 4).

⁷ UNSC Res 1325 (31 October 2000) UN Doc S/RES/1325; UNSC Res 1820 (19 June 2008) UN Doc S/RES/1820; UNSC Res 1888 (30 September 2009) UN Doc S/RES/1888; UNSC Res 1889 (5 October 2009) UN Doc S/RES/1889; UNSC Res 1960 (16 December 2010) UN Doc S/RES/1960.

personnel;⁹ and conflict prevention.¹⁰ The Security Council also released a number of presidential statements and, as an annex to one of them,¹¹ an *aide memoire* was adopted in 2002 to identify the core objectives for protecting civilians. It was revised for the first time the following year,¹² while a fourth version was adopted in 2010.¹³

Other UN organs were also involved in the issue: the Secretary-General released many reports on the topic, and the Millennium Declaration adopted by the General Assembly identified ‘protecting the vulnerable’ as a priority area and agreed to ‘expand and strengthen the protection of civilians in complex emergencies in conformity with international humanitarian law’.¹⁴

2. RtoP’s underpinnings in the discourse on PoC prior to the Open Debate of December 2005

As is well known, RtoP doctrine is built upon two basic underpinnings: the description of state sovereignty as responsibility and the identification of a complementary responsibility to protect, bearing upon the international community, whenever a state is unable or unwilling to exercise its role in protection.¹⁵

The analysis of the positions expressed by governments at the Open Debates on PoC in armed conflicts reveals an interesting and growing process of ‘contamination’, triggered by the RtoP doctrine, of states’ perceptions of the international community’s role in dealing with mass atrocities. As a matter of fact, until 2005, RtoP appears to have influenced the discourse about PoC in the context of the Open Debates, in particular by emphasising the need for stronger involvement on the part of the international community in those cases in which a state and/or other parties to a conflict are deficient in protecting the civilian population.

This process took place gradually. During the first Open Debates held between 1999 and 2001, the participants mainly directed their attention to the seriousness of the impact of conflicts on civilians, defined as a cause of grave concern for the community of states. The delegations recognised the results achieved in the creation of a normative framework (humanitarian law and human rights), while simultaneously expressing their preoccupation with the gap that existed between such provisions and their enforcement. They also identified some critical issues, stressing the need to improve international efforts in fields such as the fight against impunity or conflict prevention. In these meetings, while the role of the Security Council in preventing and resolving conflicts was continuously stressed, the contribution of the international community as such to PoC was only occasionally mentioned. In general, states agreed on the need for a comprehensive approach by the international community to cover the political, economic, social, legal and humanitarian dimensions of protection. But, most importantly, the international community was never called to complement states’ efforts to provide protection.

Something started to change in 2002, when, after the adoption of the International Commission on Intervention and State Sovereignty (ICISS) Report,¹⁶ some states appeared to be influenced by the RtoP vocabulary and framework. Despite the fact that references to the

⁸ UNSC Res 1612 (26 July 2005) UN Doc S/RES/1612; UNSC Res 1882 (4 August 2009) UN Doc S/RES/1882.

⁹ UNSC Res 1502 (26 August 2003) UN Doc S/RES/1502.

¹⁰ UNSC Res 1625 (14 September 2005) UN Doc S/RES/1625.

¹¹ UNSC Presidential Statement 6 (2002) UN Doc S/PRST/2002/6.

¹² UNSC Presidential Statement 27 (2003) UN Doc S/PRST/2003/27.

¹³ This recent document updates the specific issues for consideration in meeting the Security Council action’s primary goals; furthermore it expressly intends to offer ‘guidance in circumstances where the Council may wish to consider action outside the scope of a peacekeeping operation’: see UNSC Presidential Statement 25 (2010) UN Doc S/PRST/2010/25, Annex, 1.

¹⁴ United Nations Millennium Declaration, UNGA Res 55/2 (8 September 2000), UN Doc A/RES/55/2, para 26.

¹⁵ UNGA ‘2005 World Summit Outcome’ (2005) UN Doc A/60/L.1 (WSO Document) paras 138-139.

¹⁶ International Commission on Intervention and State Sovereignty, ‘The Responsibility to Protect’ (Report) (December 2001) <<http://www.iciss.ca/report-en.asp>> accessed 6 April 2011 (ICISS Report).

ICISS or the High-Level Panel Reports were rarely made,¹⁷ the substance of the doctrine – with respect to both its components (sovereignty as responsibility and the complementary responsibility of the international community) – was reflected in many delegations’ interventions.

In the first place, the RtoP lexicon started to be used to reinforce some basic principles regarding PoC, such as the primary responsibility of the parties to the conflict (both state and non-state actors) for the safeguarding of non-combatants. Since 2002, indeed, some delegations have significantly echoed the ICISS Report, and the state’s protection responsibilities have been defined as ‘the most natural expression of sovereignty’,¹⁸ or ‘an essential element of a State’s sovereign status’.¹⁹

Secondly, and more significantly, the role of the international community – and, foremost, of the UN – was increasingly designed to complement the state’s functions in protection. Some delegations began to affirm that when a state is unable or unwilling to protect its citizens, the international community *has* to engage.²⁰ PoC began to be described as a shared responsibility and the international community (sometimes even illustrated in all its components²¹) was gradually identified as the body responsible for making up for the state’s shortcomings.

Not all states agree, though. In fact, in some cases, the position was that the international community should only offer assistance, with UN organs providing just a supplementary contribution to PoC.²² Furthermore, some states expressed their concerns about the concepts of ‘humanitarian intervention’ and ‘responsibility to protect’, pointing out the need to carefully manage them.²³ They clearly feared the potential camouflage, under the guise of humanitarian assistance, of activities that would undermine state sovereignty. Therefore, unsurprisingly, those states required that all humanitarian efforts be undertaken ‘with the full cooperation, coordination and consent of the Government’.²⁴

3. The inclusion of a reference to RtoP in Resolution 1674 (2006) and its impact on subsequent Open Debates

The need to mention RtoP in a resolution on PoC was discussed for the first time at the Open Debate of December 2005. The participant states had different opinions on the convenience of

¹⁷ Canada in UNSC Verbatim Record (14 June 2004) UN Doc S/PV.4990 Resumption 1, 16; Canada, Liechtenstein and Argentina in UNSC Verbatim Record (14 December 2004) UN Doc S/PV.5100 Resumption 1, respectively 5, 19, 20.

¹⁸ Argentina in UNSC Verbatim Record (10 December 2002) UN Doc S/PV.4660 Resumption 1, 24.

¹⁹ Canada in UNSC Verbatim Record *ibid*, 11.

²⁰ *ibid* and Romania in UNSC Verbatim Record (14 June 2004) UN Doc S/PV.4990, 7. The position has also been expressed by the Under-Secretary General for Humanitarian Affairs and the Emergency Relief Coordinator: ‘swift action by the Council is indispensable where Governments do not honour those responsibilities or deliberately act in violation thereof’ See: UNSC Verbatim Record (15 March 2002) UN Doc S/PV.4492, 5; ‘it is when Governments do not have the capacity or are unwilling to provide assistance and protection that the United Nations must execute its special role and responsibilities’. See: UNSC Verbatim Record (14 June 2004), 3. France went even further asserting that ‘there is a collective obligation to protect when a State is no longer in a position to exercise one of its primary responsibilities ... or no longer has the will to do so’. See: UNSC Verbatim Record (14 December 2004) UN Doc S/PV.5100, 12.

²¹ The Canadian delegation stated: ‘While few beyond the Security Council have the authority or the capacity to compel Member States to act in support of civilian needs in situations of conflict, action and advocacy are not the duty of the Council alone. The General Assembly, regional organisations, United Nations operational agencies, nongovernmental organisations (NGOs), the private sector and individual countries all have obligations. All need to be proactive in protecting the vulnerable’. See: UNSC Verbatim Record (10 December 2002) (n 18) 11.

²² Russian Federation in UNSC Verbatim Record (10 December 2002) UN Doc S/PV.4660, 28; Republic of Korea in UNSC Verbatim Record (9 December 2003) UN Doc S/PV.4877 Resumption 1, 10.

²³ Colombia in UNSC Verbatim Record (14 December 2004) UN Doc S/PV.5100 Resumption 1, 23.

²⁴ *ibid*.

an explicit reference to RtoP by the Security Council, the only UN organ that, at that time, had not yet recalled the doctrine in a document. Three different positions emerged.

First, several states mentioned the relevance of the World Summit Outcome Document (WSO Document) provisions on RtoP,²⁵ sometimes openly welcoming the references to RtoP as contained in a draft resolution. Among these states, France explicitly stressed that it would be uncontroversial for the Security Council to refer to that notion, since ‘it commanded a consensus among [...] heads of States or Governments’.²⁶

Second, other states, which favoured the inclusion of a reference to RtoP in a Security Council document, expressed strong support for RtoP and the complementary role of the international community, which was seen as a political and moral responsibility.²⁷

Third, a small group of countries (including China, the Russian Federation, and Egypt) were sceptical about the concept and insisted on the state’s primary responsibility to protect, consequently denying the international community any pro-active role. For these states the Security Council was not the venue to develop RtoP, and they considered it premature to advance the concept in Security Council documents. They claimed that it would be necessary to have a detailed discussion of the concept within the General Assembly, before considering its possible implementation.²⁸

Due to the disagreement that emerged among Member States regarding the possibility of mentioning RtoP, the document, which had been expected to pass in December 2005, was adopted some months later. Resolution 1674 of April 2006, which recalled paragraphs 138 and 139 of the WSO Document, formalised the RtoP doctrine in the context of the Open Debates on PoC.

In the subsequent Debates, the states that were reluctant to grant an active role to the international community have radicalised their positions. These states clearly perceive the reference to the RtoP doctrine by the Security Council, the UN organ that wields the greatest power in the maintenance of international peace and security, as potentially hazardous. Indeed, they have insisted vigorously that the international community merely play a supporting role, and have constantly stressed the need to respect state sovereignty²⁹ and governments’ attempts to protect civilians.³⁰ Some have even underlined that international support should be deployed in accordance with the territorial state in question’s will,³¹ and following its guidelines.³²

These delegations consider the notion of RtoP to be subject to different understandings and interpretations by Member States: indeed, they worry about its potential invocation by the Security Council.³³ China, for example, has frequently highlighted that the

²⁵ UNSC Verbatim Record (9 December 2005) UN Doc S/PV.5319 (Brazil 10; Italy 12; Peru 13; Germany 20; Japan 23; South Africa 27; Switzerland 28; Mexico 29); UNSC Verbatim Record (9 December 2005) UN Doc S/PV.5319 Resumption 1 (Algeria 3; France 7; United Kingdom 9; Norway 10).

²⁶ France in UNSC Verbatim Record (9 December 2005) Resumption 1 *ibid*, 7.

²⁷ UNSC Verbatim Record (9 December 2005) (n 25) (Argentina 8; Benin 11; Canada 15; Greece 22; Tanzania 25; Denmark 31); UNSC Verbatim Record (9 December 2005) Resumption 1 (n 25) (Liechtenstein 15).

²⁸ UNSC Verbatim Record (9 December 2005) *ibid*, (Russian Federation 19; China 30); UNSC Verbatim Record (9 December 2005) Resumption 1 *ibid*, (Egypt 6).

²⁹ Russian Federation in UNSC Verbatim Record (4 December 2006) UN Doc S/PV.5577 Resumption 1, 8; Vietnam in UNSC Verbatim Record (27 May 2008) UN Doc S/PV.5898, 14; Venezuela in UNSC Verbatim Record (14 January 2009) UN Doc S/PV.6066 Resumption 1, 32.

³⁰ Sri Lanka in UNSC Verbatim Record (26 June 2009) UN Doc S/PV.6151 Resumption 1, 23.

³¹ China in UNSC Verbatim Record (22 June 2007) UN Doc S/PV.5703, 17.

³² Colombia in UNSC Verbatim Record (22 June 2007) *ibid*, 39.

³³ China in UNSC Verbatim Record (22 June 2007) *ibid*, 17; Sudan in UNSC Verbatim Record (22 November 2010) S/PV.6427 Resumption 1, 26.

Security Council is not in a position to interpret or expand the concept.³⁴ Most recently, RtoP has even been described as an instrument to promote neo-colonialism.³⁵

Despite the tenacious opposition maintained by these delegations, in general, the number of states perceiving the need for effective, timely and decisive action by the international community and the UN has been increasing.³⁶

Furthermore, there has also been recognition of the urgency of RtoP implementation,³⁷ which has been underlined – among others – by the European Union (EU), through the voice of its Member States.³⁸ The stress put on the '*mise en oeuvre*' of the RtoP shows that states increasingly accept the concept and feel it to be necessary.

More importantly, many states have started to see the role of the international community as an obligation and not just as a political or moral responsibility.³⁹ In this sense, the EU has pointed out the need to integrate RtoP into an overall normative framework.⁴⁰

In conclusion, the reference to RtoP in Resolution 1674 (2006), and the resulting 'official' entry of the doctrine in the context of the PoC Open Debates, undoubtedly determined the consolidation of contrasting positions. On the one hand, states that had previously shown reluctance to accept the notion of RtoP patently had their concerns renewed and reinforced. On the other hand, several states have confirmed and strengthened their favourable view of RtoP, have called for its implementation, and, furthermore, have given the concept a legal dimension, refusing to confine it to being a political or moral imperative.

This contrast, however, has not precluded the advancing of the discourse regarding PoC. Rather, the discrepancy between 'RtoP defenders' and 'RtoP detractors' suggests that RtoP contributes to the debate, calling for the pro-activeness of the international community in providing protection. This is precisely what is feared by opponents and sustained by supporters of the RtoP.

4. RtoP and growing *opinio necessitatis* regarding an accountable international community

The PoC Open Debates provide an important context in which to monitor the evolution of RtoP, and, in particular, the extent to which it is accepted by states. RtoP, and in particular, the complementary responsibility of the international community, is not yet envisioned by international law. Despite the fact that the UN Charter recognises a clear role for the Security Council in the maintenance of peace and security – which includes the protection of civilians from mass atrocities – this organ exercises its functions with high discretion. In fact, a general obligation requiring the international community to ensure protection of individuals,

³⁴ See, eg, UNSC Verbatim Record (27 May 2008) (n 29), 9.

³⁵ Venezuela in UNSC Verbatim Record (7 July 2010) UN Doc S/PV.6354 Resumption 1, 21.

³⁶ See, eg, the declarations of the Governments of Ghana in UNSC Verbatim Record (28 June 2006) UN Doc S/PV.5476, 12; Peru in UNSC Verbatim Record (22 June 2007) (n 31), 8.

³⁷ See the positions expressed by Canada, Australia and New Zealand (CANZ) in UNSC Verbatim Record (22 June 2007) *ibid*, 35; New Zealand and Australia in UNSC Verbatim Record (20 November 2007) (respectively UN Doc S/PV.5781, 31 and UN Doc S/PV.5781 Resumption 1, 13); Italy, Croatia and Australia in UNSC Verbatim Record (27 May 2008) (n 29) respectively 7, 21, 25; France in UNSC Verbatim Records (14 January and 26 June 2009) UN Doc S/PV.6066, 25; UN Doc S/PV.6151, 17; Italy and Peru in UNSC Verbatim Record (7 July 2010) respectively UN Doc S/PV.6354, 33; UNSC Verbatim Record (7 July 2010) Resumption 1 (n 35), 17.

³⁸ Portugal in UNSC Verbatim Record (20 November 2007) Resumption 1 *ibid*, 2; Slovenia in UNSC Verbatim Record (27 May 2008) *ibid*, 29; Czech Republic in UNSC Verbatim Record (26 June 2009) *ibid*, 30.

³⁹ The declarations made by the following governments are particularly significant: Congo and Belgium in UNSC Verbatim Record (22 June 2007) (n 31) respectively 16, 24; United Kingdom and Ghana in UNSC Verbatim Record (20 November 2007) (n 37) respectively 11, 17; Panama in UNSC Verbatim Record (27 May 2008) (n 29) 15; Burkina Faso in UNSC Verbatim Record (14 January 2009) 18.

⁴⁰ See the Swedish declaration in UNSC Verbatim Record (11 November 2009) UN Doc S/PV.6216, 30.

whenever the state concerned fails to play its part, is neither contained in a treaty, nor does it have the status of customary law.

However, to consider RtoP as a mere ‘buzzword’ in the vocabulary of international organisations would be to underestimate documents such as the one elaborated at the World Summit⁴¹ and the impact that the RtoP doctrine has had on many states’ perceptions of the international community’s role in response to mass atrocities.

According to the ICISS Co-Chairman, Gareth Evans, although RtoP does not fall within customary international law, it can still be considered ‘a new standard of behaviour, and a new guide to behaviour, for every State’.⁴² In other words, despite RtoP not yet being envisioned by law, it could be widely accepted by states as a model for action or a principle containing guidelines, as demonstrated by the WSO Document, ‘a unanimous General Assembly resolution at head of State and government level’.⁴³

As a matter of fact, the analysis of the concept within the UN and African Union (AU) confirms that RtoP is widely perceived as a suitable guide to behaviour, even if some practical issues (the legitimacy and the conditions governing the use of force for humanitarian reasons) are still hotly debated among states.

In particular, in the UN context, the WSO Document contains a clear political commitment on the part of the UN and its Members States concerning RtoP. Furthermore, documents such as the Report of the Secretary-General on the implementation of the Responsibility to Protect⁴⁴ and on its relevance for early warning and assessment,⁴⁵ as well as the appointment of a Special Adviser with a focus on the doctrine, confirm that RtoP is not just part of the UN’s vocabulary, but also on the UN’s agenda. Moreover, the AU has embraced RtoP on several occasions, such as the common position expressed by Member States on the proposed reform of the UN known as the ‘Ezulwini Consensus’,⁴⁶ or the African Commission on Human and Peoples’ Rights (ACHPR) resolution on ‘strengthening the Responsibility to Protect in Africa’.⁴⁷

Although this is not sufficient to make RtoP part of customary law, the growing recognition of RtoP’s crucial role in dealing with security challenges determined by gross violations of human rights and humanitarian law, the consistent commitment to RtoP principles, and the efforts to implement them, suggest the emergence of an *opinio necessitatis*, something that lies behind any international legal rule.⁴⁸ *Opinio necessitatis* differs from *opinio juris* in that instead of consisting of ‘the belief in the legally permissible or obligatory nature of [a] conduct’, *opinio necessitatis* is the belief ‘of its necessity’.⁴⁹ While legally speaking, it may be of minor value, it can still ‘play a part in the law-creating process’,⁵⁰ making states draw up treaties or adapt their policies following a principle. In this

⁴¹ WSO Document (n 15) para 26.

⁴² Gareth Evans, ‘Implementing the Responsibility to Protect: the need to build on the 2005 consensus’ (speech at the United Nations General Assembly Interactive Dialogue on the Responsibility to Protect in New York 23 July 2009) < <http://www.gevans.org/speeches/speech405.html> > accessed 13 July 2010.

⁴³ *ibid.*

⁴⁴ Report of the Secretary-General, ‘Implementing the Responsibility to Protect’ (2009) UN Doc A/63/677.

⁴⁵ Report of the Secretary-General, ‘Early Warning, Assessment, and the Responsibility to Protect’ (2010) UN Doc A/64/864.

⁴⁶ African Union (Executive Council, 7th Extraordinary Session), ‘The Common African Position on the Proposed Reform of the United Nations’ (-8 March 2005) Ext/EX.CL/2 (VII).

⁴⁷ ACHPR, ‘Resolution on Strengthening the Responsibility to Protect in Africa’ (15 28 November 2007) Res 117 (XXXII), 7.

⁴⁸ For some additional thoughts, see L Poli, ‘R2P as an emerging rule of international law and the *opinio necessitatis* of an accountable international community’ (2010) 4 *La Comunità Internazionale*, 579-599.

⁴⁹ M Mendelson, ‘The Formation of Customary International Law’ (1998) 272 *Recueil des Cours de l’Académie de Droit International*, 269.

⁵⁰ *ibid.*, 271.

case, *opinio necessitatis* may gradually become *opinio juris* and – whenever accompanied by a widespread repetition of similar acts over time by states (*usus*) – generate a customary law norm.

Specifically with regard to the international community's complementary responsibility to protect, the emergence of a rule of international law will eventually be determined by how broadly and coherently the RtoP concept is put into practice. However, at least the necessity of this complementary responsibility is now widely perceived. Indeed, an increasing *opinio necessitatis* regarding concrete, effective and accountable involvement on the part of the international community in managing crises to protect individuals can be inferred from the above-mentioned documents and, moreover, this is an observable trend in the Security Council's Open Debates on PoC.

In fact, the RtoP doctrine has gradually influenced the issue of PoC, and has contributed to the outlining of the concept of a strong role for the international community in dealing with mass atrocities. This process started quietly, at the time of the adoption of ICISS Report, when the Report's philosophy was reflected in some states' positions at the Open Debates. It became clearer and stronger after the adoption of the WSO Document and, finally, it was formalised with the adoption of Resolution 1674.

This increasing 'contamination' is a strong indicator of the spreading *opinio necessitatis* for an effective international response in the case of a Member State's failure to protect. While the scope of RtoP, particularly as far as the military reaction is concerned, is still being elaborated⁵¹ and the emergence of RtoP as a rule of international law is therefore still at a very early stage, undeniably, there is an increasing awareness of the concept which is destined to be reflected in contemporary international law.

5. Conclusion: RtoP and PoC as expressions of a culture of protection

Despite the fact that RtoP and PoC are inspired by the same aim (the protection of civilians) and share normative foundations (human rights, humanitarian law), some features permit a clear distinction between the two. The protection of civilians extends beyond RtoP, which focuses on four crimes (genocide, war crimes, ethnic cleansing, crimes against humanity) and, conversely, is not limited to mass atrocities occurring in armed conflicts.⁵²

The differences between the two have been occasionally underlined in the Open Debates,⁵³ but most states perceive a strong link between RtoP and PoC,⁵⁴ sometimes describing them as mutually reinforcing.⁵⁵ RtoP has been seen as representing an integral part of the PoC⁵⁶ and 'an extremely important vehicle for advancing the work on the protection of civilian in armed conflict'.⁵⁷ Vice versa, the PoC has been considered a 'key area in fulfilling the responsibility to protect'.⁵⁸ As stressed by the Argentinean delegation during an Open Debates held in 2006, RtoP and the adoption of Resolution 1674 'mark the beginning of a new phase in the actions the international community should take in this area'.⁵⁹ The culture of protection envisioned by the Secretary-General in his reports on PoC is now growing.

⁵¹ UN organs have progressively contributed to defining RtoP in order to make it consistent with the UN Charter, while the African Union has shown a much more proactive attitude.

⁵² Global Centre for the Responsibility to Protect, 'The relationship between the Responsibility to Protect and the Protection of Civilians in Armed Conflict' (January 2009) <<http://globalr2p.org/media/pdf/GCR2PPolicyBrief-ProtectCivConflict.pdf>> accessed 13 July 2010.

⁵³ Liechtenstein in UNSC Verbatim Record (27 May 2008) (n 29) 32; Turkey and Sri Lanka in UNSC Verbatim Record (7 July 2010) respectively (n 37) 26; Resumption 1 (n 35) 31.

⁵⁴ Most recently, the European Union in UNSC Verbatim Record (7 July 2010) Resumption 1 *ibid*, 12-13.

⁵⁵ Slovenia in UNSC Verbatim Record (28 June 2006) (n 36) 25.

⁵⁶ See the declarations made by Croatia in UNSC Verbatim Record (11 November 2009) (n 40) 11 and Rwanda in UNSC Verbatim Record (11 November 2009) UN Doc S/PV.6216 Resumption 1, 53.

⁵⁷ Ireland in UNSC Verbatim Record (11 November 2009) Resumption 1 *ibid*, 19.

⁵⁸ Benin in UNSC Verbatim Record (21 June 2005) UN Doc S/PV.5209, 11.

⁵⁹ Argentina in UNSC Verbatim Record (28 June 2006) (n 36) 16.

Much has to be done in terms of implementation, but recognising the need for an accountable international community is a major step forward in the right direction.